



United States District Court

Northern District of Illinois

219 South Dearborn Street

Chicago, Illinois 60604

FILED

JAN 21 2011
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Judge Robert W. Gettleman
United States District Court

(312) 435-5543

Chambers of
Robert W. Gettleman
Judge

January 21, 2011

Hon Richard Posner
U.S. Court of Appeals
219 S. Dearborn St.
Chicago, IL 60604

Hon. Michael Kanne
U.S. Court of Appeals
219 S. Dearborn St.
Chicago, IL 60604

Hon. Diane P. Wood
U.S. Court of Appeals
219 S. Dearborn St.
Chicago, IL 60604

Re: Trans Union Corp. Privacy Litigation
Appeal of Dawn Adams Wheelahan, No. 10-1154

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Dear Judges Posner, Kanne and Wood:

I take this unusual step to communicate with you concerning a factual error in the opinion issued in the above-caption matter on January 14, 2011. Ordinarily, I would leave it to the parties to point this out, but because, as acknowledged in the opinion (pp. 3-15), the class from which the additional fee awarded by the court of appeals would be paid was unrepresented in the appeal, the error may have been caused by the somewhat non-adversarial nature of the proceedings.

On page 4 of the slip opinion, the court states that I had preliminarily approved the MDL counsels' proposed \$40 million settlement. This is incorrect. As the record reflects, Magistrate Judge Michael Mason, to whom I had referred the case for settlement and discovery purposes, rejected the \$40 million settlement proposal in a report and recommendation dated January 3, 2008 (Doc. 405-406). On March 4, 2008, I denied objections to Judge Mason's R&R. (Doc. 432.)

Again, I want you all to know that I have never written a letter like this concerning a decision by the court of appeals. Because, as acknowledged in the opinion, the court of appeals was compelled to "decide the appeal with limited assistance from an adversary presentation" (slip op. at 3), I wanted to bring this matter to your attention.

Very truly yours,

Robert W. Gettleman
United States District Judge

RWG:mjg

cc: All Counsel of Record